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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,633

01/06/2006

Masao Ieno

2005-2019A

3272

513

7590

08/02/2011

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EXAMINER

GOTFREDSON, GAREN

ART UNIT

PAPER NUMBER

1619

NOTIFICATION DATE

DELIVERY MODE

08/02/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/563,633	<b>Applicant(s)</b> IENO ET AL.
	<b>Examiner</b> GAREN GOTTFREDSON	<b>Art Unit</b> 1619

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1,2 and 6-8.  
 Claim(s) withdrawn from consideration: 15-22.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/DAVID J BLANCHARD/ Supervisory Patent Examiner, Art Unit 1619	/GG/
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Continuation of 11. does NOT place the application in condition for allowance because: As noted in the Final Office Action, Nomura discloses that a fiber skin care product comprising serine will promote moisture retention. Thus, it would be obvious to modify the fiber of Nakashima to comprise sericin in order to obtain the moisture retention skin benefits of the sericin when used in clothing. Applicants argue that Nakishima teaches away from the combination by disclosing that decreasing the amount of carboxyl groups on the fiber (as would occur upon addition of the sericin), would lower the moisture absorptive/desorptive properties of the fiber. However, Applicants' invention is directed to improving moisture retention on the skin (page 1 of the specification), not the moisture properties of the fiber. Nothing in Nakashima or Nomura suggests that decreasing carboxyl groups via addition of sericin would reduce moisture retention on the skin. Therefore, the references do not teach away from their combination for the purpose addressed by Applicants' invention.

Applicants further argue that the evidence of record (i.e., Zhang et al.) discloses only that the addition of sericin enhances the absorption of water in liquid form (at page 97, 1<sup>st</sup> paragraph), which is allegedly not the same as a "moisture absorbing" property, which is said to relate to the absorption of water in gas form. However, Zhang does refer to the "moisture absorbing" properties of sericin at p. 92, 4<sup>th</sup> full paragraph and p. 95, 3<sup>rd</sup> paragraph. There is no evidence of record that these portions of Zhang only relate to liquid water absorption, or that there is no correlation between liquid water absorption and water vapor absorption. Moreover, Applicants' argument does not address the fact that the cited references do not teach away from their combination for the purpose of promoting moisture retention on the skin as discussed supra, regardless of whether the references disclose an effect of the sericin on the moisture absorbing properties of the fiber itself. Finally, it is noted that Applicants' arguments regarding JP 06-017372A could not be considered, as no English translation of this document is of record.